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**UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/174,804 10/19/98 MORROW

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JOHN S. ARTZ  
ARTZ & ARTZ P.C.  
28333 TELEGRAPH RD., SUITE 250  
SOUTHFIELD MI 48034

QM32/0623

EXAMINER
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CHAMBERS, M

ART UNIT	PAPER NUMBER
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3711

DATE MAILED:

06/23/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/174,804

Applicant(s)

Morrow et al

Examiner

M. Chambers

Group Art Unit

3711



☒ Responsive to communication(s) filed on Mar 23, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-74 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 1-41 is/are allowed.

☒ Claim(s) 42-74 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 15

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

This Office Action is a response to the Application filed on:

Number	Name	Date	Claims	Independent Claims
09174804	Morrow et al	10/19/98	74	5

### **DETAILED ACTION**

#### ***Priority***

1. This application claims priority as a CIP application of Design Patent D376,183 which was filed on May 3, 1995.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the said front side of said sidewalls curving away from said plane from said base toward said lip so as to impart a curved geometry when viewed in side elevation must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The existing drawings fail to show the sidewalls curving away from the said base and toward the said lip.

#### ***Specification***

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.


The following is a quotation of 37 CFR 1.71(a)-(c):

- (a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.
- (b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is

old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

3. Claims 58 and 68 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification and drawings make reference to the front side and back side curving away from said plane and then back toward said plane to provide a scoop-like geometry to said head when viewed in the side elevation.

Regarding claim 58: The examiner can find nothing in the specification, drawings or claims that would indicate the applicant intended for the front and back side to merely curve away from the said plane and not include the limitation of curving back to the said plane. 

Regarding claim 68: The examiner can find nothing in the specification, drawings or claims that would indicate the applicant intended for at least a portion of said front side of said sidewall being offset from said plane and not include the limitation of curving back to the said plane.

Claims 59-67 are rejected, as they are dependent on Claim 58.

Claims 69-74 are rejected, as they are dependent on Claim 68.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 42-45 are rejected under 35 U.S.C. 102(b) as being **anticipated** by **Brine (5067726)**. **Brine** discloses an open frame having a base with a concave interior surface, a pair of sidewalls diverging from said base and a lip interconnecting said sidewalls remotely of said base; means carried by said frame for securing a lacrosse net along a back side of said frame, and means exteriorly projecting from said base for attachment of a handle so as to define a handle/head axis, said front side of said base having a concave shoulder(fig 1) that is recessed with respect to said interior surface of said base (34,28)<sup>30</sup> with net securing means at said base being disposed in said shoulder(16).

Regarding claim 43,44: **Brine** discloses the concave interior surface at an obtuse angle (fig 1).

Regarding claim 45: **Brine** discloses the shoulder recessed more than one quarter of an inch (fig 1).

4. Claims 58-74 as far as understood, are rejected under 35 U.S.C. 102(a) as being **anticipated** by **Dill et al**. **Dill et al** discloses an open frame having a base with a concave interior surface, a pair of sidewalls diverging from said base and a lip interconnecting said sidewalls remotely of said base; means carried by said frame for securing a lacrosse net along a back side of said frame, and a projection extending exteriorly from said base for attachment of a handle so as to define a handle/head axis, said front side of said frame at said base adjacent to said attachment means defining a plane parallel to said axis said front side of said sidewalls curving away from said plane from said base toward said lip so as to impart a curved geometry when viewed in side elevation (fig 2,3).

Regarding claim 59: Dill et al discloses a curved geometry when viewed in the side elevation (fig 2,3).

Regarding claim 61: Dill et al discloses a curved geometry when viewed in the side elevation (fig 2,3).

Regarding claim 62,69: Dill et al discloses sidewalls of uniform thickness (fig 1).

Regarding claim 63,70: Dill et al discloses an exterior surface remote from said base (fig 1).

Regarding claim 64,71: Dill et al discloses a base with a concave shoulder (fig 1).

Regarding claim 65,72: Dill et al discloses a base with a net securing means (100).

Regarding claim 66,73: Dill et al discloses an obtuse angle to said axis (fig 1,3).

Regarding claim 67, 74: Dill et al discloses a recessed shoulder (13).

Regarding claim 68: Dill et al discloses a front side of said sidewall being offset from said plane (Fig 3).

Note: The 1995 advertisement noted in the original application (Brine Get the Edge) discloses the apparatus of the Dill et al application. If the applicant objects to the 5,651,549 patent because of the 12/5/95 filing date, the above rejections are made based on the Brine sales literature.

***Allowable Subject Matter***

5. Claims 1-24 and 25-41 are allowed because no prior art was found that defined a plane parallel to the handle/head axis where both said front and said back sides of said sidewalls curved away from the said plain and back towards the said plane from said base toward said lip so as to impart a curved scoop-like geometry to said head.

6. Claim 60 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any

intervening claims.

### ***Reissue Applications***

7. Applicant is reminded of the continuing obligation under 37 CFR 1.56 to timely apprise the Office of any litigation information, or other prior or concurrent proceeding, involving Patent No. 5,568,925 , which is material to patentability of the claims under consideration in this reissue application. This obligation rests with each individual associated with the filing and prosecution of this application for reissue. See MPEP §§ 1404, 1442.01 and 1442.04.

### ***Conclusion***

The prior art made of record and relied upon.

Patent Number	Date	Patent Name	Notes
5651549	7/29/97	Dill et al	
5067726	11/26/91	Brine III et al	
Sales literature	1995	Brine	"Get the edge"

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

#### ***NOTE:***

***1) If Applicant believes they have not received all of the cited references noted in this office action, they should call the examiner listed below within one (1) week of receiving this notice in order to obtain duplicate material and reset the time frame of this office action. If the applicant fails to request additional materials in a timely manner, the requested materials will be resent, but the applicant will have to obtain a time extension in the normal fashion.***

Any inquiry concerning this communication or earlier communications from the examiner should

be directed to **Michael Chambers** whose telephone number is (703) 306-5516. The examiner can normally be reached on Mon.-Fri. from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeanette E. Chapman**, can be reached on (703) 308-1310. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1078.

***Faxing of Responses to Office Actions***

In order to reduce pendency and avoid potential delays, TC3700 is encouraging FAXing of responses to Office Actions directly into the group at (703) 305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner, art unit and case number at the top of your cover sheet. Papers submitted via FAX into TC3700 will be promptly forwarded to the examiner.

  
JEANETTE CHAPMAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700